UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BANK OF NEW YORK MELLON,	Case No.: 2:17-cv-00980-APG-DJA
Plaintiff	**Order (1) Granting Motion to Vacate Order, (2) Denying Motion for Default Judgment, (3) Denying Motion for Reconsideration, and (4) Setting Deadline to File Joint Proposed Pretrial Order**
v.	
AZURE ESTATES OWNERS ASSOCIATION, et al.,	
Defendants	

I previously struck defendant Azure Estates Owners Association's answer because it ceased participating in this action, and I set a deadline for cross-claimant Ricardo Fojas to move for default judgment against Azure. ECF No. 100. I also dismissed Fojas's crossclaim against Nevada Association Services, Inc. (NAS) because he did not serve NAS with the crossclaim as required under Federal Rules of Civil Procedure 4 and 5 and took no action to prosecute his crossclaim against NAS. ECF No. 108.

After months of inaction, Azure finally reappeared in the case on July 27, 2020, and it moves to vacate my order striking its answer. Fojas did not oppose the motion. Having considered Azure's motion and the supporting affidavits, I grant the motion and vacate the portion of my prior order that struck Azure's answer. Because Azure is no longer in default, I deny Fojas's motion for default judgment.

I deny Fojas's motion for reconsideration. Although Fojas is pro se, he still must comply with the Federal Rules of Civil Procedure. *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995) ("Although we construe pleadings liberally in their favor, pro se litigants are bound by the rules of procedure."). Even putting aside the technicalities of properly serving NAS with the

1 counterclaim, Fojas took no action to prosecute his counterclaim against NAS and indeed

2 apparently did not realize NAS was still a party until I pointed it out. I see no basis to reconsider

3 my earlier ruling.

4   I THEREFORE ORDER that cross-defendant Azure Estates Owners Association's

5 motion to vacate order **(ECF No. 110) is GRANTED**. I vacate the portion of my prior order

6 (**ECF No. 108**) that struck Azure's answer and I therefore **VACATE** the related clerk's entry of

7 default (**ECF No. 101**). The clerk of court is instructed to un-strike and reinstate the answer

8 (**ECF No. 73**).

9   I FURTHER ORDER that cross-claimant Ricardo Fojas's motion for default judgment

10 **(ECF No. 112) is DENIED**.

11   I FURTHER ORDER that cross-claimant Ricardo Fojas's motion for reconsideration

12 **(ECF No. 111) is DENIED**.

13   I FURTHER ORDER that cross-claimant Ricardo Fojas and cross-defendant Azure

14 Estates Owners Association must file a joint proposed pretrial order by September 11, 2020.

15   DATED this 18th day of August, 2020.

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        ANDREW P. GORDON
        UNITED STATES DISTRICT JUDGE

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